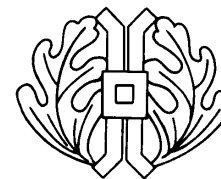


# PREVENTIVE LAW SERIES

## Guardianship



Prepared by:  
Legal Assistance Department  
Naval Legal Service Office Southwest  
P.O. Box 357042  
Naval Air Station, North Island  
San Diego, CA 92135-7042  
(619) 545-6278



### WHAT IS A GUARDIANSHIP?

A guardianship (of the person) is a legal procedure where the court gives parental rights and the obligations over a minor to a person other than the parent(s). The minor is called a "ward" and the adult appointed by the court is called a "guardian."

### WHAT IS THE EFFECT OF A GUARDIANSHIP?

When a guardian (of the person) is appointed, the natural parents no longer have the right to determine where the minor will live and how he or she will be educated, and they do not have *custody* of their child. Instead, the guardian has those rights as well as the responsibility to make health care decisions for the minor child.

### HOW LONG DOES THE GUARDIANSHIP LAST?

A guardianship (of the person) continues until one of the following occurs:

1. the minor marries;
2. the minor reaches the age of majority (18);
3. the minor finishes high school (if this occurs after turning eighteen (18) years of age); OR
4. the guardianship is terminated by the court upon the petition of an interested party.

### WHO NEEDS A GUARDIANSHIP?

If a minor is living with you for a lengthy period of time and you are not the parent, you may need to petition for guardianship. If you do not, you may have problems enrolling the child in school, receiving public aid (if you are entitled), obtaining medical treatment, or adding the child to your health insurance or military dependency list. You may not need a guardianship if the stay with you will be temporary, the parent(s) have agreed to the stay, and health care is accessible. However, it would be wise to obtain a Power of Attorney (in loco parentis) from the parent(s).

### HOW DO I BECOME A GUARDIAN?

If you can afford an attorney, do so. If you cannot afford an attorney, the San Diego Lawyer Volunteer Program (235-5656) may be able to help you (if you meet low income criteria). Or you can do it yourself by following these steps:

1. Go to the Superior Court and pick up a Guardianship packet from the clerk's office. There will be a small fee for the paperwork.
2. Read the instructions carefully and fill out the appropriate forms. You can make an appointment with

a

Navy Legal Assistance Attorney for help by calling (619)545-6278.

- may
3. File the petition with the Court. There will be a filing fee of \$191.00. If you cannot afford this, you qualify for a *waiver* of the filing fee. There will be a form in the Guardianship packet to fill out and submit to see if you are eligible for the waiver.
  4. Give the required notices (as explained in the Guardianship packet).
  5. Complete the investigation procedure (the Court will explain this).
  6. Appear at the Court hearing; and
  7. File the written order and letters of guardianship with the Court.

### **HOW DO I GET A GUARDIANSHIP TODAY ?**

If circumstances require that you get a guardianship *immediately*, the Court may appoint you as a temporary guardian while waiting for the hearing on permanent guardianship, if:

1. There is an immediate AND compelling need for the guardianship;
2. There is good cause to waive notice to the parents (or the parents give their consent and waive notice); AND
3. The "Petition for Appointment of Permanent Guardian" is filed at the same time you apply for temporary guardianship.

If you meet the above criteria, you may present your petition for temporary guardianship to the Probate Examining Department of the Court during ex-parte hours. The forms packet will explain which forms to fill out.

### **LEGAL ASSISTANCE APPOINTMENTS:**

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

### **RESOURCES:**

Probate Examining Department of the Superior Court: San Diego (236-3781), Vista (760-940-4504).